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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/639,582	08/14/2000	Bob M. Ayers	07844-367001	1726
21876	7590	01/21/2005	EXAMINER	
FISH & RICHARDSON P.C. 3300 DAIN RAUSCHER PLAZA MINNEAPOLIS, MN 55402			HUYNH, CONG LACT	
		ART UNIT	PAPER NUMBER	
		2178		

DATE MAILED: 01/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Offic Action Summary	Application N .	Applicant(s)
	09/639,582	AYERS, BOB M.
	Examin r	Art Unit
	Cong-Lac Huynh	2178

– The MAILING DATE of this communication appears on the cover sheet with the corresponding address –

Periodic Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 04 October 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 15-32 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 15-32 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 11 June 2004 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ .

5) Notice of Informal Patent Application (PTO-152)

6) Other: ____ .

DETAILED ACTION

1. This action is responsive to communications: RCE filed 10/07/04 to the application filed on 8/14/00.
2. Claims 1-14 are canceled.
3. Claims 15-32 are added.
4. Claims 15-32 are pending in the case. Claims 15 and 24 are independent claims.
5. The rejections of claims 1-12 under 35 U.S.C. 112, second paragraph, have been withdrawn in view of the cancellation of claims 1-12.

Drawings

6. The replacement of figure 2 filed 6/11/04 is acknowledged. It appears that the replacement of figure 2 is not proper since figure 2 is prior art, not the present invention whereas the purpose of the replacement is to clarify the features of the claimed invention.

Double Patenting

7. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in

scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

8. Claims 24-32 are objected to under 37 CFR 1.75 as being a substantial duplicate of claims 14-23. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

9. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

10. Claims 15-32 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding independent claim 15, one limitation of the claim states that "*the one or more interior boxes forming one or more lower levels of the hierarchy, each lower level including one or more interior boxes*" (lines 7-8). This claimed limitation is disclosed in the specification as a prior art, not the present invention (specification page 1, lines 24-27 and figure 2). This claimed limitation, therefore, is not appropriate.

Dependent claims 16-23 are rejected for fully incorporating the deficiencies of their base claim.

Claims 24-32 are rejected under the same issue as claims 16-23.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

12. Claims 14-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Microsoft PowerPoint 2000, Copyright 1987-1999 Microsoft Corporation, referred as PowerPoint, screenshots, pages 1-15.

Regarding independent claim 15, PowerPoint discloses:

- receiving a page layout template, the template including a hierarchy of boxes, the hierarchy including an exterior bounding box for the template and one or more interior boxes contained within the exterior bounding box, the exterior bounding box forming the topmost level of the hierarchy, the one or more interior boxes form one or more lower levels of the hierarchy, each lower level including one or more interior boxes, the exterior bounding box having one or more dimensions that are variable, at least one of the interior boxes having one or more metrics

that are variable in the same dimensions as the exterior bounding box, each metric specifying a size for the interior box, a distance between the interior box and another box, or both, the size or distance defined as a range of permissible values around a nominal value, the another box being another box on the same level or on a different level of the hierarchy (**pages 2-3, 8-9**: the page layout template has a hierarchy of boxes including an exterior bounding box for the template and one or more interior boxes “Click to add title”, “Double click to add org chart” where the exterior bounding box forming the topmost level of hierarchy, the one or more interior boxes form lower levels of the hierarchy where each line of data within the lower box is considered one or more interior boxes within an interior box; **pages 5-7**: the template has at least one box “Click to add title” having adjustable metrics in the variable dimension specifying at least one of the size of the box and the distance from this box to another box “Double click to add org chart”, where the size or distance defined as a range of permissible value around the size of the external box where the another box being another box on the same level of the hierarchy)

- converting the one or more variable dimensions of the exterior bounding box into one or more fixed dimensions (**page 4**: user can convert a size for each variable dimension to a fixed size by entering a desired number in the height box or the width box)

- adjusting the metrics of the interior boxes based on the fixed dimensions (**page 5**: user can click on the corners or the middle points of each size of the box to adjust the metrics of the box)

Regarding claim 16, which is dependent on claim 7, PowerPoint adjusting the metrics of the boxes in hierarchical order (**page 2**: the page layout template includes two sibling boxes having hierarchical relationship; **page 5**: adjusting the metrics of the upper and lower boxes).

Regarding claim 17, which is dependent on claim 8, PowerPoint discloses adjusting the metrics of the boxes independently in each dimension (pages 5-6).

Regarding claim 18, which is dependent on claim 8, PowerPoint discloses adjusting the metrics of the boxes, first in the one dimension, and then in another dimension (**pages 2 and 5**: the metrics of the boxes are adjusted in one dimension, and then in another dimension in page 5 compared with page 2).

Regarding claim 19, which is dependent on claim 10, PowerPoint discloses terminating adjusting of a particular box and its child boxes in a given dimension at a hierarchical layer when the particular box has a synthesized size in the given dimension (**pages 5-6**: the adjustment of the upper box and the lower box is considered terminated when reached to a desired size).

Regarding claim 20, which is dependent on claim 15, PowerPoint discloses adjusting the metrics of the interior boxes includes for each variable dimension, for each level of the hierarchy, for each interior box in the level, adjusting the metric in the variable dimension to a value within the range of permissible values (**pages 5-6**: adjusting the metrics of the interior boxes “Click to add title” and “Double click to add org chart” in a level of the hierarchy in the variable dimension to a value within the size of the template, which includes the range of permissible values).

Regarding claim 21, which is dependent on claim 20, PowerPoint discloses that if the metric is a synthesized metric, terminating adjustment of the interior box and any child boxes contained within the interior box, the synthesized metric being a metric that is adjusted after content has been flowed into the interior box (**pages 10-14**: when data is flowed into the upper box as in pages 12-14, adjusting the metrics of upper box is terminated).

Regarding claim 22, which is dependent on claim 15, PowerPoint discloses:

- the metrics include a synthesized metric, the synthesized metric being a metric that is adjusted after content has been flowed into the interior box (**pages 10-14**: since the height of the box, which is the metric of the box “Click to add title” is adjusted when data is flowed into the upper box as in pages 12-14, the metrics of said box include a synthesized metric)

- adjusting the metrics of the interior boxes includes adjusting the metrics of the interior boxes without adjusting the synthesized metric (page 15: adjusting the metric of upper box "Click to add title" including adjusting the length of the box "Click to add title" which is the metrics of the interior box without adjusting the height of the box, which is a synthesized metric).

Regarding claim 23, which is dependent on claim 22, PowerPoint discloses:

- flowing content into the boxes (pages 10-14: entering data in the upper box)
- adjusting the synthesized metric based on the flowed content (pages 10-14)

Claims 24-32 include the same limitations of claims 14-23, and are rejected under the same rationale.

Response to Arguments

13. Applicant's arguments filed 10/07/04 have been fully considered but they are not persuasive.

Applicants argue that PowerPoint fails to disclose interior boxes with metrics that are variable, where each variable metric specifies a size for the interior box, a distance between the interior box and another box, or both, the size or distance defined as a range of permissible value around a nominal value. Instead, the PowerPoint reference merely discloses boxes with metrics that have a fixed value (Remarks, page 7).

Examiner respectfully disagrees.

PowerPoint does disclose a page layout template having an exterior box and the interior boxes “Click to add title” and “Double click to add org chart” having *variable metrics* where the variable metrics, the width and the length, specify the size for the interior boxes (each box has its width and length *adjustable*), not the fixed values as argued. Since the interior boxes “Click to add title” and “Double click to add org chart” can be adjusted by either changing their width or length sizes within the range of permissible values of the width and the length of the whole template in the Page Setup or dragging the corner of the boxes to a desired size, their variable metrics which are the width and the length, can specify a distance between the interior box and another box, or both, and the size or distance is defined as a range of permissible value around a nominal value.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kraft et al. (US Pat No. 6,137,488, 10/24/00, filed 7/29/98).

Mohr et al. (US Pat No. 6,826,727 B1, 11/30/04, filed 11/24/99).

O'Shea (US Pat No. 6,813,746 B1, 11/2/04, filed 3/10/99).

Miyasaka et al. (US Pat No. 6,766,362 B1, 7/20/04, filed 7/28/00).

Loui et al. (US Pat No. 6,636,648 B1, 10/21/03, filed 7/2/99).

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cong-Lac Huynh whose telephone number is 571-272-4125. The examiner can normally be reached on Mon-Fri (8:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Hong can be reached on 571-272-4124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-4125.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Cong-Lac Huynh
Examiner
Art Unit 2178
01/10/05